

REMARKS

The present status of the claims is shown in the following table:

Claim		112, 2 nd ¶	103(a)	Objected-to
1			X	
	2	X	X	
	3		X	
	4	X	X	
	5		X	
	6		X	
	7			X
	8			X
9		X	X	
	10	X	X	
	11	X	X	
	12	X	X	
	13	X	X	
	14		X	
15			X	
	16		X	

Claims 2, 4 and 9-14 Are Allowable Under 35 U.S.C. § 112, Second Paragraph

Claim 2 has been rejected on the grounds that it recites the anvil fixed to "at least one of said plates", while the Examiner states that the specifications and drawings disclose the anvil fixed to either jaw (14) or elongated rod (21) but not to either plate. One of ordinary skill in the art would understand from the specification, drawings and claims that anvil 15 (Figure 1) could also be fixed to one of the plates 11 or 12. The language of the claim has been clarified by changing the term "fixed" to "coupled". Therefore, this rejection is respectfully traversed.

Claim 4 has been rejected on the grounds that it recites the upper jaw “pivotally coupled to said first handle”, while the Examiner states that the specification and drawings disclose the upper jaw fixed to the first handle and the lower jaw pivotally coupled to the second handle. One of ordinary skill in the art would understand from the specification, drawing and claims that either or both of the upper and lower jaws can be pivotally coupled to their respective handles. Therefore, this rejection is respectfully traversed.

Claim 9 has been rejected on the grounds that it recites “an anvil coupled to said plates”, while the Examiner states that the anvil is not disclosed as coupled to the plates but rather to a jaw or elongated rod. Similarly, claim 11 has been rejected on the grounds that it recites that the elongated rod is “coupled to said plates”, while the Examiner states the rod is disclosed to be coupled to the lower jaw. Claims 9 and 11 have been cancelled without prejudice.

Claims 1-6 Are Allowable

The Examiner has stated that claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Claim 1 has been amended to include the limitation of claim 7 and/or claim 8, and is therefore now allowable. Claims 2-6 depend from claim 1, and are therefore also now allowable. Claims 7 and 8 have been cancelled.

Claims 15-16 Are Allowable over Small Under 35 U.S.C. § 103(a)

Claim 15 has been amended to specify that the striking surface is proximate to the end of the apparatus to which the plates are fixed. Claim 16 depends from claim 15, and so is also allowable.

Claims 17-24 Are Allowable

New claims 17-24 are allowable over Small and Verna. Neither Small nor Verna disclose a striking surface that is near or at the plates of the apparatus, i.e., proximate to the plates. Thus,

even if Small and Verna were combined, the claimed invention would not result. Hence, claims 17-22 are allowable.

Reasons for Amendments

The applicant respectfully disagrees with the arguments set forth by the Examiner with respect to the initial set of claims, and reserves the right to pursue claims of identical or similar scope in a continuation application. Small discloses a tool with a biting tooth to concentrate the gripping force onto a small area so as not to slip off of a headless pin when it is being extracted. Small, Col. 1, lines 6-7, 14; col. 4, lines 30-32; 53-55. This is unsuitable for the present invention, which distributes the force of the gripping plates over a large area so as not to tear out only a piece of the shingle that is being extracted. There is no suggestion in either Small or Verna to substitute the biting tooth of Small with the gripping plates of Verna. The statement of Small cited by the Examiner that Small's invention "is manifestly capable of more general use in applying a lengthwise traction or tension force in the form of directionally oriented force impulses, to various elongated articles or workpieces", Small col. 2, lines 27-30, in no way suggests replacing Small's biting tooth with plates. Indeed, plates that distribute the force applied by the jaws would render Small's invention unsuitable for its intended purpose, as it would slip off of the headless pins it was meant to extract. Hence, Small has no motivation to suggest the combination cited by the Examiner. On the contrary Small teaches away from such a combination.

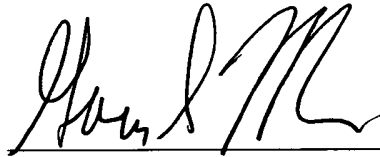
The applicant has amended the claims in part because the applicant is eager to commercialize his invention, to which end an early-issued patent may prove useful. Also, the applicant's representative has not been able to reach agreement with the Examiner during informal telephone interviews that the Examiner's grounds for rejection of the original claims under section 103 may be traversed. Therefore, the applicant intends to pursue these arguments further in a continuation application.

CONCLUSION

For at least the foregoing reasons, the applicant respectfully submits that the Examiner's grounds for rejection and objection have been traversed. An early notice of allowability is earnestly solicited.

A copy of the claims as amended is appended to this response for the convenience of the Examiner. Should the Examiner have any questions or wish to discuss this case for any reason, she is welcome to contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gary S. Morris", written over a horizontal line.

Dated: October 17, 2002

Gary S. Morris (Reg. No. 40,735)
KENYON & KENYON
1500 K Street, N.W., Suite 700
Washington, DC 20005
Telephone: (202) 220-4200
Facsimile: (202) 220-4201